

Peter W. Billings, A0330
Gary E. Jubber, A1758
FABIAN & CLENDENIN,
A Professional Corporation
215 South State, Suite 1200
P.O. Box 510210
Salt Lake City, Utah 84151
Telephone: (801) 531-8900
Facsimile: (801) 596-2814

Attorneys for Official Committee of
Unsecured Creditors

**IN THE UNITED STATES BANKRUTPCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In Re:)	Bankruptcy Nos. 02-22906 GEC
)	02-22907 GEC
SIMON TRANSPORTATION SERVICES)	02-24874 GEC
INC., DICK SIMON TRUCKING, INC. and)	(Chapter 11)
SIMON TERMINAL, LLC,)	[SUBSTANTIVELY CONSOLIDATED]
)	
Debtors.)	Judge Glen E. Clark
)	

**UNSECURED CREDITORS' COMMITTEE OBJECTION TO
PROOFS OF CLAIM NOS. 759, 720 AND 778**

The Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel, Fabian and Clendenin, hereby objects, pursuant to 11 U.S.C. § 502 and Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure, to Proof of Claim Nos. 759 (filed by the United States Equal Employment Opportunity Commission) and 720 and 778 (filed by Melissa D. Caudle) in the above case. In support of the objection, the Committee states:

1. Debtors, Simon Transportation Services, Inc. and Dick Simon Trucking, Inc. filed voluntary Chapter 11 petitions on February 25, 2002. Simon Terminal, LLC filed a voluntary Chapter 11 petition on March 26, 2002. The cases were jointly administered.

2. On April 22, 2002, the Court entered an order authorizing the sale of substantially all of the Debtors' assets to Central Refrigerated Service, Inc.

3. On March 5, 2002, the Court entered an order fixing August 26, 2002 as the deadline to file proofs of claim.

4. On March 12, 2003, the Court entered its *Order Confirming Amended Joint Plan of Liquidation* ("Confirmation Order") in the above jointly administered cases. Pursuant to the Amended Joint Plan of Liquidation the estates of the Debtors were substantially consolidated, and all property of Debtors vested in a consolidated estate (the "Estate") under the exclusive control of the Committee. The Committee was designated as the representative of the Estate pursuant to 11 U.S.C. § 1123(b)(3)(B) and given all necessary authority to administer the Estate, including the authority to object to claims. *See, Second Amended Joint Plan of Liquidation Dated December 27, 2002, ¶ 6.4.*

5. Based upon the foregoing, the Committee objects to the following claims:

Claim No. 759 – U.S. Equal Employment Opportunity Commission

The U.S. Equal Employment Opportunity Commission filed Claim no. 759 in the amount of \$31,016 as a priority claim pursuant to 11 U.S.C. § 507(a)(3). The claim was filed on behalf of Melissa Caudle, a former employee of Dick Simon Trucking, Inc., and is for lost wages accruing after January 1, 2002. (EEOC file no. 350-A2-02393)

The Committee objects to claim no. 759 on the basis that the claim is duplicative of claim nos. 720 and 778 filed by Melissa Caudle, and therefore should be disallowed in its entirety. In the alternative, the Committee objects to allowance of a priority claim for unpaid wages in excess of the statutory limit of \$4,650.00 as provided in 11 U.S.C. § 507(a)(3).

Claim Nos. 720 and 778 – Melissa D. Caudle

Melissa D. Caudle filed two claims, nos. 720 and 778, each asserting an unsecured priority claim in the amount of \$18,666.67. The claims are for wages and allege sexual harassment.

The Committee objects to claim no. 720 as duplicative of claim no. 778 and therefore should be disallowed in its entirety. With respect to claim no. 778, the Committee objects to the claim to the extent that it seeks priority treatment for unpaid wages in excess of the \$4,650.00 limitation provided in Section 507(a)(3).

WHEREFORE, the Committee seeks entry of an order disallowing claim nos. 759 and 720 and 759 in their entirety as duplicative of claim no. 778. The Committee also seeks an order allowing claim no. 778 as a priority claim pursuant to U.S.C. § 507(a)(3) in the amount of \$4,650.00, and reclassifying the balance of the claim (\$14,016.67) as a general unsecured claim, and for such other and further relief as the Court deems appropriate.

DATED this 18th day of September, 2003.


Peter W. Billings
Gary E. Jubber
FABIAN & CLENDENIN
A Professional Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, postage fully prepaid, this 19th day of September, 2003.

United States Trustee
9 Exchange Place, Suite 100
Salt Lake City, Utah 84111

Weston L. Harris
Parsons Kinghorn Peters
111 East Broadway, 11th Floor
Salt Lake City, UT 84111

U.S. Equal Employment Opportunity Commission
3300 North Central Avenue
Suite 690
Phoenix, AZ 85012

Mrs. Melissa D. Caudle
8182 Buena Verde Lane
Magna, UT 84044-2759

A handwritten signature in black ink, appearing to read "Weston L. Harris", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'W' at the beginning.